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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/735,089	12/12/2003	Thomas William Armstrong	135-0006US	1599
29855	7590	05/29/2008	EXAMINER	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, L.L.P. 20333 SH 249 SUITE 600 HOUSTON, TX 77070				MCINTYRE, CHARLES AARON
4176		ART UNIT		PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/735,089	ARMSTRONG ET AL.	
	Examiner	Art Unit	
	C. Aaron McIntyre	4176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-51 is/are pending in the application.
 - 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-51 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 December 2003 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. ____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date <u>20031212</u>	6) <input type="checkbox"/> Other: ____ .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9, 12-29, 32-44, and 47-51 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartman et al. (US 5,960,411).

3. Regarding **claims 1, 21, and 38**, Hartman et al. disclose a buyer computing device operable by a buyer for purchasing a product from a merchant by way of a data network (abstract, *client system ... server system*), comprising:

- a. a network interface component for exchanging data by way of the data network (col. 1, ll. 10-30, *interconnected through communication links*);
- b. a display component for displaying a product available for purchase from the merchant through a merchant computing device (col. 1, ll. 10-30, *The WWW service allows a server computer system (i.e., Web server or Web site) to send graphical Web pages of information to a remote client computer system*);
- c. a purchase order component configured to send to the merchant, in response to a single purchasing action taken to purchase a product displayed by

the display component, a purchase order for the product by way of the data network (col. 3, ll. 31-67, *purchaser need only perform a single action (e.g., click a mouse button) to order the item ... once the description of an item is displayed, the purchaser need only take a single action to place the order to purchase that item*);

d. a value storage component for electronically storing data representative of a currency of an issuer, and verifiable as representing the currency by the merchant, the value storage component being configurable to electronically transfer data representative of an amount of the currency to the merchant in response to the single purchasing action (col. 1, ll. 45-67, col. 2, ll. 1-49, *purchaser-specific order information may include the purchaser's name, the purchaser's credit card number, and a shipping address for the order.* col. 3, ll. 31-67, *The server system then completes the order by adding the purchaser-specific order information for the purchaser that is mapped to that client identifier to the item order information (e.g., product identifier and quantity). Thus, once the description of an item is displayed, the purchaser need only take a single action to place the order to purchase that item*).

4. Regarding **claims 2, 22, and 39**, Hartman et al. disclose wherein the purchase order component is configured to send the purchase order to the merchant computing device (col. 3, ll. 3-7, *effect the ordering*).

5. Regarding **claims 3, 23, and 40**, Hartman et al. disclose wherein the value storage component is configurable to electronically transfer by way of the data network the data representative of the amount of the currency upon request from the merchant, the request being initiated in response to the single purchasing action (col. 1, ll. 66-67, *credit card*, col. 3, ll. 31-67, *single action ... server system then completes the order by adding the purchaser-specific order information*).

6. Regarding **claims 4 and 24**, Hartman et al. disclose wherein the value storage component is operable to receive the request from the merchant computing device (col. 1, ll. 66-67, *credit card*, col. 3, ll. 31-67, *purchaser-specific order information*).

7. Regarding **claims 5 and 25**, Hartman et al. disclose wherein the value storage component is operable to receive the request from a computing device separate from the merchant computing device (col. 1, ll. 66-67, *credit card*, col. 3, ll. 31-67, *purchaser-specific order information*).

8. Regarding **claims 6, 26, and 41**, Hartman et al. disclose an authorization component, the authorization component being configurable to authorize the value storage component to transfer to the merchant, by way of the data network, the data representative of an amount of the currency from the value storage component to

complete the purchase order (col. 1, ll. 66-67, *credit card*, col. 3, ll. 31-67, *purchaser-specific order information ... server system then completes the order*).

9. Regarding **claims 7, 27, and 42**, Hartman et al. disclose wherein the authorization component is configurable to authorize transfer of the data representative of an amount of the currency to a maximum predetermined amount (col. 1, ll. 66-67, *credit card*, col. 3, ll. 31-67, *purchaser-specific order information*).

10. Regarding **claims 8, 28, and 43**, Hartman et al. disclose wherein the authorization component is configurable to authorize transfer of sufficient amounts of the data representative of an amount of the currency to pay for download of data to the buyer computing device by way of the network (col. 1, ll. 46-65, *products can include items (e.g., music) that are delivered electronically to the purchaser over the Internet*).

11. Regarding **claims 9, 29, and 44**, Hartman et al. disclose wherein the download of data comprises at least one of audio data, video data, image data, text data and executable data (col. 1, ll. 46-65, *products can include items (e.g., music) that are delivered electronically to the purchaser over the Internet*).

12. Regarding **claims 12, 32, and 47**, Hartman et al. disclose wherein the single purchasing action is one of selection of an object, generation of a sound, and

depression of a key (col. 4, ll. 4-58, *single-action ordering section allows the purchaser to specify with a single click of a mouse button to order the described item*).

13. Regarding **claims 13, 33, and 48**, Hartman et al. disclose wherein the data representative of the amount of the currency is untraceable to the buyer (this is inherent in the abstract's payment information. For example: if the representative data was \$102, or even \$0.25, that particular amount of currency would not be traceable to any one individual).

14. Regarding **claims 14, 34, and 49**, Hartman et al. disclose wherein the display component comprises a world wide web compatible browser to display a merchant web page offering the product available for purchase, received by way of the data network (col. 1, ll. 10-65, *client computer system receives that Web page, it typically displays the Web page using a browser ... Many Web servers have been developed through which vendors can advertise and sell product*).

15. Regarding **claims 15, 35, and 50**, Hartman et al. disclose wherein the purchase order component comprises code executable by the browser to enable a single purchasing action and to send to the merchant computing device the purchase order (col. 4, ll. 4-58, *a single Web page on the server system may contain all these sections*

but the single-action ordering section can be selectively included or excluded before sending the Web page to the client system).

16. Regarding **claims 16, 36, and 51**, Hartman et al. disclose wherein the single purchasing action is enabled by one of selection of an object, generation of a sound, and depression of a key (col. 4, ll. 4-58, *single-action ordering section allows the purchaser to specify with a single click of a mouse button to order the described item*).

17. Regarding **claim 17**, Hartman et al. disclose wherein the data representative of a currency of an issuer is cryptographically encoded (col. 1, ll. 66-67, col. 2, ll. 1-16, *To help ensure the security of the sensitive information, various encryption techniques are used when transmitting such information between a client computer system and a server computer system*).

18. Regarding **claim 18**, Hartman et al. disclose wherein the data representative of a currency of an issuer is verifiable without assistance of the issuer (col. 1, ll. 46-65, *server computer system then typically confirms the order by sending a confirming Web page to the client computer system*, col. 4, ll. 59-67, col. 5, ll. 1-8, *order confirmation section confirms that the order has been placed and provides an opportunity for the purchaser to review and change the single-action order*).

19. Regarding **claims 19 and 37**, Hartman et al. disclose wherein the data representative of a currency of an issuer is verifiable by a third party (col. 1, ll. 66-67, *credit card*).

20. Regarding **claim 20**, Hartman et al. disclose a client-server system for purchasing a product available from a merchant by way of a data network (abstract, *client system ... server system*), the system comprising,

- e. on a buyer client computing device:
 - i. a network interface component for exchanging data by way of the data network (col. 1, ll. 10-30, *interconnected through communication links*);
 - ii. a display component for displaying a product available for purchase from the merchant through a merchant computing device (col. 1, ll. 10-30, *The WWW service allows a server computer system (i.e., Web server or Web site) to send graphical Web pages of information to a remote client computer system*);
 - iii. a purchase order component configured to send to the merchant, in response to a single purchasing action taken to purchase a product displayed by the display component, a purchase order for the product by way of the data network (col. 3, ll. 31-67, *purchaser need only perform a single action (e.g., click a mouse button) to order the item ... once the*

description of an item is displayed, the purchaser need only take a single action to place the order to purchase that item);

iv. a value storage component for electronically storing data representative of a currency of an issuer, and verifiable as representing the currency by the merchant (col. 1, ll. 45-67, col. 2, ll. 1-49, *purchaser-specific order information may include the purchaser's name, the purchaser's credit card number, and a shipping address for the order*);

f. on a merchant operated server computing device:

v. a network interface component for exchanging data by way of the data network (col. 1, ll. 10-30, *interconnected through communication links*);

vi. a payment handler component configurable to request from the value storage component electronic transfer of data representative of an amount of the currency to the merchant in response to the single purchasing action (col. 3, ll. 31-67, *The server system then completes the order by adding the purchaser-specific order information for the purchaser that is mapped to that client identifier to the item order information (e.g., product identifier and quantity). Thus, once the description of an item is displayed, the purchaser need only take a single action to place the order to purchase that item*).

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

22. Claims 10, 11, 30, 31, 45, and 46, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hartman et al. (5,960,411) in view of Barber (6,157,917).

23. Referring to **claims 10, 11, 30, 31, 45, and 46**, Hartman et al. disclose a buyer computing device operable by a buyer for purchasing a product from a merchant by way of a data network with an authorization component, as applied above in the rejection of claims 1, 6, 21, 26, 38, 40, and 41 under 35 U.S.C. 102(b), but Hartman et al. does not explicitly disclose that the system includes consumption based charges based on at least one of time, data volume, and bandwidth usage.

However, Barber discloses a similar system, which system of Barber indeed includes wherein the authorization component is configurable to authorize repeated transfer of sufficient amounts of the data representative of an amount of the currency to pay consumption based charges for the product (col. 1, ll. 44-67, *bandwidth preserving method of providing for payment for information over a network*, col. 2, ll. 1-42).

Barber further discloses wherein the consumption based charges are based on at least one of time, data volume, and bandwidth usage (col. 1, ll. 44-67, *bandwidth preserving method of providing for payment for information over a network*, col. 2, ll. 1-42).

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the system of Hartman et al. so as to have included consumption based charges based on bandwidth usage, in accordance with the teaching of Barber, in order to provide another method of charging for on demand product downloads since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Conclusion

24. Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Aaron McIntyre whose telephone number is (571) 270-5401. The examiner can normally be reached on Monday to Thursday 9-6 ET.

25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry O'Connor can be reached on (571) 272-6787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

26. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. A. M./
Examiner, Art Unit 4176
May 15, 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 4176